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C O N F I D E N T I A L SECTION 01 OF 02 HARARE 000198

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [ASEC](#) [ZI](#)
SUBJECT: TSVANGIRAI AND MISTREATED OPPOSITION DETAINEES
APPEAR IN COURT

REF: REFTEL: HARARE 000195

Classified By: Ambassador Christopher W. Dell under Section 1.4 b/d

Summary

11. (C) A badly beaten MDC President Morgan Tsvangirai and fifty members of his party, including senior leaders from both factions, finally appeared in court March 13. No charges were filed with the court appearance turning on access to medical treatment. The Ambassador and other diplomats observed police and prosecutors disobey lawful court orders and attempt to obstruct treatment. All of the detainees were eventually taken to a hospital. What happens next is unclear. Opposition lawyers tell us since charges were not filed, the police have no legal basis to hold their clients and they are working to secure their freedom. However, the police continue to act with impunity, shooting two unarmed mourners at the home of slain opposition activist Gift Tandare, and may not obey a court order for the release of Tsvangirai and the other detainees. End Summary.

Courtroom Drama Unfolds As Medical Aid Delayed

12. (SBU) A High Court judge last night ruled that the fifty opposition members arrested on March 11 were to be provided access to attorneys and medical care by noon today. In a sign of things to come the police and prosecutors only obeyed several hours after the fact. No charges were filed at the hearing, which instead centered on access for the detainees to medical care. The Ambassador, along with the Ambassadors from the UK, Australia, Spain, and Sweden, as well as

representatives from other Western Embassies witnessed opposition lawyers pleading with court officials to allow their clients -- many severely injured -- access to medical care. A weakened Morgan Tsvangirai had a large cut on his head and a swollen eye, and NCA chairman Lovemore Mhaduku's arm was in a cast and head in a bandage. The Ambassador also saw one opposition youth spread out on the floor, semi-conscious and obviously in need of urgent attention.

13. (SBU) Initially, the attorney general's representative agreed that four individuals, specifically named on the High Court Judge's order of the previous evening, could be taken to the hospital. Tsvangirai, one of the four, refused to go unless all in need of treatment were permitted to go. After negotiations with defense attorneys and consultations with her supervisors, the attorney general's representative relented. However, the police officer-in-charge initially refused to obey the decision, further delaying medical treatment for several hours more. Eventually, the police officer relented as well and all were taken by ambulance and in police custody to Avenues Hospital in Harare. The youth activist on the floor appeared to be declining quickly and the attorney general's representative also relented in his transfer to the hospital after observing his condition with evident shock and worry, despite the fact that his name was on no list of detainees.

No Charges Filed

14. (SBU) Zimbabwean law requires charges to be brought

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within 48 hours. As noted above, no charges were brought against the detainees during today's hearing. The lawyers for Tsvangirai and the other MDC leaders told us they would demand their clients be released after medical treatment.

Anger Boiling Over

15. (C) As Tsvangirai and others were led from court several hundred onlookers sang the MDC's party song. After the ambulance departed some in the crowd started singing and toy-toying, most fled when the riot police chased them. The Ambassador observed the police pull several women out of parked vehicle, and put into police trucks and taken into custody.

16. (C) Separately, police shot and seriously injured two mourners at the home of Gift Tandare, the MDC youth slain by police on Sunday. Anti-Senate MDC advisor Jameson Timba told poloff that Tandare's family had given the MDC permission to hold the a wake on March 16 at the opposition's headquarters in downtown Harare and to conduct a funerary march to be lead by Tsvangirai, assuming he has been released, the day after.

17. (SBU) Zimbabwe Lawyers for Human Rights Lawyer Otto Saki also informed us that opposition activists protested in Gweru earlier today in solidarity of those detained in Harare. This follows on the heels of the MDC protest in Mutate yesterday in which some 75-100 were detained by police.

Comment

18. (C) Tsvangirai's dramatic court appearance today confirmed the reports that he was badly mistreated while in police custody. He and many of the other MDC members showed visible signs of abuse, but contrary to earlier reports Tsvangirai appeared alert, engaged, and the clear leader of

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the detainees. However, the detainees were in high spirits and seemed unbowed by their ordeal. The MDC as a whole seems similarly energized by the events of the past two weeks. In a hopeful sign that the party's split may be healing, Tsvangirai and rival faction leader Mutambara sat together in

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the court room and chatted often. It would be ironic if it were the government and its brutal tactics that healed the rift within the MDC. The government's tactics may also cause the very upsurge in opposition activity they are designed to suppress. In that regard, the next few weeks, and in particular the funeral procession for Tandare, are likely to be extremely telling.

DELL